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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Implementation of the Non-Accounting
Safeguards of Sections 271 and 272 of the
Communications Act of 1934, as amended.

CC Docket No. 96-149

BELLSOUTH COMMENTS

BellSouth Corporation, on behalf of BellSouth Telecommunications, Inc., (collectively, "BellSouth") hereby responds to the Commission's *Further Notice of Proposed Rulemaking* ("FNPRM") in the above referenced proceeding.¹

In the *FNPRM*, the Commission proposed an information maintenance and disclosure regimen to satisfy its previous determination that, in order for Section 272(e)(1) of the Act² to be implemented effectively, BOCs must make publicly available the intervals within which they provide service to themselves and their affiliates.³ Although the Commission has not proposed to require the filing of the specified information, it has proposed to require the BOCs to generate,

¹ *Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, *First Report and Order and Further Notice of Proposed Rulemaking*, FCC 96-489 (released Dec. 24, 1996) ("FNPRM").

² The Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.* See, 47 U.S.C. § 272(e)(1). This section states that BOCs "shall fulfill any requests from an unaffiliated entity for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or to its affiliates."

³ *FNPRM* at ¶ 368 (referring to paragraph 242 of the *FNPRM*).

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maintain, and make the information publicly available in a form prescribed by the Commission.

The Commission has solicited comment on its proposals.

At the outset, BellSouth believes that no additional information collection and disclosure requirements are warranted. BellSouth and other BOCs already regularly file nondiscrimination reports and other service quality reports arising from a variety of regulatory proceedings, including ARMIS 43-05 reports, Local Transport Restructure reports, and ONA reports. Collectively, these reports provide more than adequate information for the Commission and other entities to determine whether the BOCs are properly meeting the service needs of other parties. Moreover, since these reports have been required, there has never been any showing of systematic abuse by the BOCs. The Commission's proposal for additional information collection and disclosure are therefore unnecessary to achieve the Commission's and the Act's intended purpose. To the extent the Commission does impose new information disclosure requirements, however, BellSouth offers the following observations on the Commission's proposals.

Method of information disclosure. BellSouth agrees with the Commission's desire to minimize the administrative burden associated with maintaining and disclosing the collected information.⁴ Thus, BellSouth agrees that the information itself need not be filed, as long as notice of how the information may be accessed is provided. The Commission should confirm, however, that because the collected information may reflect service activity related specifically to a BOC's or its affiliate's -- and, in some cases, third parties'⁵-- business activity, BOCs are permitted to require parties seeking access to the information to execute confidentiality

⁴ *FNPRM* at ¶ 369.

⁵ *See, FNPRM* at 381, proposing availability of certain information by carrier identification codes.

agreements. Such a prerequisite would be consistent with the requirements of Section 222(a)⁶ and would be the complement of the BOCs' obligations under Section 222(b).⁷ For the same reason, the Commission should not require that the information be placed on the Internet. U.S. Postal Service and facsimile delivery will fully satisfy the Commission's concern regarding access to and use of the information by unaffiliated entities, including small entities.⁸

Service categories and units of measure. The Commission also solicited comment on the type of information to be maintained and a format for its presentation.

BellSouth agrees that no interval measurement should be based on a "requested" or "desired" due date, since these dates are beyond the control of the BOC.⁹ Although BOCs have every reason to try to meet their customers' desired due dates, any measurement based on these "deadlines" would present the incentive for IXC's and others to attempt to skew the BOCs' records by requesting unrealistic or unnecessarily truncated due dates. The Commission should not establish a measurement device that is so susceptible to manipulation by the IXC's.

With respect to the Commission's proposed categories included in Attachment C to the *FNPRM*, BellSouth has particular concerns with items 4 and 6. Item 4 proposes a measurement of the interval from the time a BOC receives a PIC change order to its implementation, measured in terms of percentage of orders implemented within successive 6 hour periods and reported by CIC code.¹⁰ Today, carrier PIC change orders predominantly are logged through the electronic

⁶ 47 U.S.C. § 222(a) (imposing a general duty to protect the confidentiality of other carriers' proprietary information).

⁷ 47 U.S.C. § 222(b).

⁸ *FNPRM* at ¶ 370.

⁹ *FNPRM* at ¶ 373.

¹⁰ *FNPRM* at ¶ 372 and Attachment C.

Customer Account Record Exchange (“CARE”) system. The benchmark objective for PIC changes processed through CARE is one day. Further, CARE is not capable of measuring in less than one-day increments because the date fields in the CARE record are not time-of-day sensitive. Thus, while the switch delivers a date and time stamp that a PIC change has occurred, there is no “time” entry in CARE with which to compare it. For this reason, BellSouth today reports PIC change activity to carriers on the basis of one-day intervals.

Item 6 simply is not clear in defining the type of event that would constitute a “PIC trouble incident” that would be subject to the proposed measurement.¹¹ It is not clear whether this category is intended to address resolution of “troubles” arising from, for example, slamming claims, claims of intended but improperly implemented PIC changes, or end user queries about PIC reversals following a change, or whether the category is intended instead to address some kind of network-related PIC change problem. Because of the lack of clarity in the proposal, BellSouth is unable to accept the viability of this item as a reporting category.

Levels of Aggregation. The Commission inquires whether the language of Section 272(e)(1) referring to intervals for service provided by a BOC to “itself or to its affiliates” requires the BOC to maintain data separately for itself and each affiliate, or whether the BOC may aggregate such data.¹² In BellSouth’s view, Section 272(e)(1)’s reference to a BOC or its affiliates does not signal any Congressional intent to establish multiple interval periods against which IXCs or other entities could choose to compare their experience. Rather, the reference to the BOC or its affiliates was merely a recognition that a BOC may be “provid[ing] such telephone

¹¹ *FNPRM* at ¶ 372 and Attachment C.


¹² *FNPRM* at ¶ 380.

exchange service and exchange access to itself or to an affiliate."¹³ Thus, it was an attempt to be inclusive and comprehensive; it was not an attempt to recognize each BOC affiliate separately. Accordingly, BOCs should not be required to maintain or provide separate data for each affiliate.

Respectfully submitted,

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¹³ 47 U.S.C. § 272(e)(1).